

AL SMITHSON, Esq.
830 23rd Street
San Diego, California 92102

(619) 234-8729

Attorney State Bar No. 51611

Attorney for Material Witness:
JOSE FILOMENNO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(Honorable BARBARA L. MAJOR)

UNITED STATES OF AMERICA,

) CRIMINAL CASE 07CR3110-JM
) MAGISTRATE CASE 07MJ8857-PCL
) DATE: December 13, 2007
) TIME: 10:30 A.M.

Plaintiff,

DECLARATION OF ATTORNEY
AL SMITHSON IN SUPPORT
OF MOTION FOR ORDER
SETTING VIDEO DEPOSITION
OF MATERIAL WITNESS
JOSE FILIOMMENO

JOSE ALFONSO TORRES,

**SETTING VIDEO DEPOSITION
OF MATERIAL WITNESS
JOSE FILIOMMENO**

Defendant.

1

INTRODUCTION

I, AL SMITHSON, declare that I am an attorney, duly licensed to practice law in the State of California and in the United States District Court for the Southern District of California;

I am making this declaration on behalf of the material witness, JOSE FILOMENNO, who was arrested on or about October 18, 2007, and has remained in custody since that date.

The material witness has no friends, neighbors, or acquaintances in the United States who can qualify as an acceptable surety to accommodate his release from custody.

1 The material witness will have been in custody for 57 days as of
2 the hearing date of this motion. To continue to remain in custody
3 imposes an extreme hardship on the material witness himself and on
4 his family.

5 Material witness JOSE FILOMENNO came to the United States to
6 help his family consisting of his wife, Dores Aristea, who is seven
7 months pregnant, and his nine year old daughter, Noelia Rosalia,
8 both of whom reside in Yucatan, Mexico.

9 In view of these facts, material witness JOSE FILOMENNO seeks
10 an Order for a video deposition from this Court. I have fully
11 explained the procedures involved in this deposition process and
12 received his promise of full cooperation in the video deposition
13 process.

14 I am unaware of any reason why this witness should not be
15 released from custody in this case after the video deposition
16 pursuant to Rule 15 (a) of the Federal Rules of Criminal Procedure,
17 and am further unaware of the existence of a statement of such
18 reason by any other attorney on this case.

19 I believe it would be in the interests of justice to allow the
20 testimony of the material witness in question to be secured by
21 video deposition and to thereafter release the material witness
22 to prevent him from suffering custody any longer than necessary in
23 order to further justice in this case.

24 I declare under penalty of perjury that the foregoing is true
25 and correct.

26 DATED: November 26, 2007.

27 /s/ Al Smithson
28 AL SMITHSON, Attorney for Material Witness